



# The Texas A&M University System

Office of the Vice Chancellor and General Counsel

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November 25, 1997

The Honorable Dan Morales  
Attorney General  
Office of the Attorney General  
P.O. Box 12548, Capitol Station  
Austin, Texas 78711-2548

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Opinion Comm.

SUBJECT: Request for Opinion re Telephonic and Videoconference Meetings of a  
Board of Regents

Dear General Morales:

We are requesting an opinion from your office relating to the following questions:

(1) May the governing board of an institution of higher education hold a regular meeting of the board where a quorum of the board members is in actual attendance at the announced location, and other members attend via a telephonic connection?

(2) May a governing board of an institution of higher education continue to utilize real-time videoconferencing as a means of holding board meetings under the authority granted to such boards to hold telephonic meetings (Sec. 551.121, Education Code), or is the board required now to comply with the provisions of the newly enacted Sec. 551.126 in order to hold meetings using this method?

Section 551.121 of the Government Code permits the governing board of an institution of higher education to hold open or closed meetings by telephone conference call.

## *§551.121. Governing Board of Institution of Higher Education*

*(a) In this section, "governing board," "institution of higher education," and "university system" have the meanings assigned by Section 61.003, Education Code.*

*(b) This chapter does not prohibit the governing board of an institution of higher education from holding an open or closed meeting by telephone conference call.*

*(c) A meeting held by telephone conference call may be held only if:*

*(1) the meeting is a special called meeting and immediate action is required; and*

*(2) the convening at one location of a quorum of the governing board is difficult or impossible.*

### Universities

Prairie View A&M University  
Tarleton State University  
Texas A&M International University  
Texas A&M University  
Texas A&M University at Galveston

Texas A&M University-Corpus Christi  
Texas A&M University-Kingsville  
West Texas A&M University

### Agencies

Texas Agricultural Experiment Station  
Texas Agricultural Extension Service  
Texas Animal Damage Control Service  
Texas Engineering Experiment Station  
Texas Engineering Extension Service  
Texas Forest Service  
Texas Transportation Institute  
Texas Veterinary Medical Diagnostic Laboratory

*(d) The telephone conference call meeting is subject to the notice requirements applicable to other meetings.*

*(e) The notice of the telephone conference call meeting must specify as the location of the meeting the location where meetings of the governing board are usually held. For a meeting of the governing board of a university system, the notice must specify as the location of the meeting the board's conference room at the university system office.*

*(f) Each part of the telephone conference call meeting that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting as the location of the meeting and shall be tape recorded. The tape recording shall be made available to the public.*

On some occasions, the Board of Regents of The Texas A&M University System holds a regular meeting at which a quorum is present but other members are unable to personally attend the meeting. Nevertheless, they desire and would be able to participate via telephonic means from a remote location, such as their home or office, or even while travelling outside of the state. We request an opinion from your office regarding whether a governing board may hold a regular meeting with a quorum of its members physically present, and have members participate in the meeting by means of telephonic connections which are audible to the public and which are tape recorded. Allowing members to do so would not appear to run counter to the public interest in having its board members deliberate and gather in open meetings since a quorum would already be present at the meeting site. All communication with the remote board member or members would be audible to the audience (with the exception of executive sessions).

In allowing boards of regents to have the flexibility to hold telephonic meetings, the legislature has clearly recognized the importance of facilitating the greatest member participation possible while providing public access to the meetings. Boards of regents are composed of nine members who reside in all parts of the state. Many such boards conduct business on a very frequent schedule. Most boards of regents conduct their business at a local campus site, frequently a far distance from any major metropolitan area. The exception allowing for boards of regents to hold telephonic meetings predates the other sections of the Open Meetings Act that allow other governmental bodies to hold telephone meetings by conference call (Sec. 551.125, Government Code), and by videoconference call (Sec. 551.126).

Following the enactment of Sec. 551.121, technological advances made it possible for boards of regents to hold videoconference calls using remote sites designated for use on a video network. The Trans-Texas Video Network (TTVN), operated by The Texas A&M University System, has sites across the state where individuals and groups gather on a daily basis to conduct meetings and classes in real-time using compressed video technology. Participants are able to hear all speakers during such meetings, and to view a site where a speaker is speaking. This technology has been used

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in the past to conduct telephonic meetings of the board of regents. Because the technology allows for all of the conditions permitted in Sec. 551.121, such as audience accessibility and recording of soundtracks, we submit that it complied with and continues to comply with the requirements of Sec. 551.121. Since it is specific to the dealings of governing boards of institutions of higher education, it is our position that such meetings are not subject to the requirements of Sec. 551.126, which deals with governmental bodies in general.

Section 551.126 to the Government Code permits a governmental body to hold open or closed meetings by videoconference call. One of the requirements of Section 551.126 is that a quorum of the governmental body *must* be physically present at one location of the meeting. There are no prerequisites that the meeting be a special called meeting requiring immediate action, or that the convening of a quorum is difficult or impossible.

Your consideration of this request is greatly appreciated.

Very truly yours,



Delmar L. Cain  
General Counsel

cc: Members, Board of Regents  
Dr. Barry B. Thompson

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